

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AHMED CHHAB, KATHRYN SHRADER,
LANCE FELDHUN, MICHAEL RELLA,
VINCENT ANTHONY BORELAND, and
ADRIANNE BENZION on behalf of themselves
and all others similarly situated,

Plaintiffs,

-against-

DARDEN RESTAURANTS, INC., GMRI, INC.,
CAPITAL GRILLE HOLDINGS, INC. d/b/a THE
CAPITAL GRILLE, and RARE HOSPITALITY
INTERNATIONAL, INC.,

Defendants.

Index No. 11-CV-8345 (NRB) (JLC)

Oral Argument Requested

**DECLARATION OF CRAIG R. BENSON
IN OPPOSITION TO PLAINTIFFS'
MOTION FOR CONDITIONAL
CERTIFICATION PURSUANT TO THE
FAIR LABOR STANDARDS ACT, FOR
COURT-AUTHORIZED NOTICE TO
SIMILARLY SITUATED PERSONS,
AND FOR EXPEDITED DISCOVERY**

CRAIG R. BENSON, an attorney admitted to practice before this Court, hereby declares
as follows under penalties of perjury:

1. I am a shareholder with the firm Littler Mendelson, P.C., attorneys for Defendants Darden Restaurants, Inc., GMRI, Inc., Capital Grille Holdings, Inc. d/b/a The Capital Grille, and Rare Hospitality International, Inc.
2. I submit this Declaration to place before the Court certain facts and documents in support of Defendants' Opposition to Plaintiffs' Motion for Conditional Certification Pursuant to the Fair Labor Standards Act, for Court-Authorized Notice to Similarly Situated Persons, and for Expedited Discovery.
3. Attached hereto as **Exhibit 1** are true and correct copies of excerpts from the transcript of the deposition of Kathryn Shrader.
4. Attached hereto as **Exhibit 2** are true and correct copies of excerpts from the transcript of the deposition of Michael Rella.
5. Attached hereto as **Exhibit 3** are true and correct copies of excerpts from the

transcript of the deposition of Crystal Beng.

6. Attached hereto as **Exhibit 4** are true and correct copies of excerpts from the transcript of the deposition of Vincent Anthony Boreland.

7. Attached hereto as **Exhibit 5** are true and correct copies of excerpts from the transcript of the deposition of Adrienne Benzion.

8. Attached hereto as **Exhibit 6** are true and correct copies of excerpts from the transcript of the deposition of Tom Gathers.

9. Attached hereto as **Exhibit 7** is a true and correct copy of an excerpt from the Service Assistant Manual.

10. Attached hereto as **Exhibit 8** is a true and correct copy of the Declaration of Joseph Rossi.

11. Attached hereto as **Exhibit 9** are true and correct copies of excerpts from the transcript of the deposition of Brian Foye.

12. Attached hereto as **Exhibit 10** are true and correct copies of excerpts from The Capital Grille Team Member Handbook.

13. Attached hereto as **Exhibit 11** is a true and correct copy of the Declaration of John Kelly.

14. Attached hereto as **Exhibit 12** are true and correct copies of excerpts from Darden's Standardized "One Best Way" Tip Share Rollout Guide.

15. Attached hereto as **Exhibit 13** is a true and correct copy of the Declaration of Richard McMaster.

16. Attached hereto as **Exhibit 14** is a true and correct copy of the Declaration of Kathleen Calkins.

17. Attached hereto as **Exhibit 15** is a true and correct copy of the Declaration of

Armin Ahrabinejad.

18. Attached hereto as **Exhibit 16** is a true and correct copy of the Declaration of Paul Muszynski.

19. Attached hereto as **Exhibit 17** is a true and correct copy of the Declaration of Melissa Trumbull.

20. Attached hereto as **Exhibit 18** is a true and correct copy of the Declaration of Allen Witcher.

21. Attached hereto as **Exhibit 19** is a true and correct copy of the Declaration of Bart Hickey.

22. Attached hereto as **Exhibit 20** is a true and correct copy of the Declaration of Christopher Amman.

23. Attached hereto as **Exhibit 21** is a true and correct copy of the Declaration of Gordon Leigh.

24. Attached hereto as **Exhibit 22** is a true and correct copy of the Declaration of Randy Cook.

25. Attached hereto as **Exhibit 23** is a true and correct copy of the Declaration of John Mirabal.

26. Attached hereto as **Exhibit 24** is a true and correct copy of the Declaration of David Icken.

27. Attached hereto as **Exhibit 25** is a true and correct copy of the Declaration of Jason Maas.

28. Attached hereto as **Exhibit 26** is a true and correct copy of the Declaration of Joel Mendieta.

29. Attached hereto as **Exhibit 27** is a true and correct copy of the Declaration of

David Fields.

30. Attached hereto as **Exhibit 28** is a true and correct copy of the Declaration of Paul Villani.

31. Attached hereto as **Exhibit 29** are true and correct copies of the signed tip share acknowledgments of Lance Feldhun, Kathryn Shrader, and Crystal Beng.

32. Attached hereto as **Exhibit 30** is a true and correct copy of the Declaration of Kyle Gaffney.

33. Attached hereto as **Exhibit 31** is a true and correct copy of the Declaration of James Zemlock.

34. Attached hereto as **Exhibit 32** is a true and correct copy of the Declaration of Ira Zipper.

35. Attached hereto as **Exhibit 33** is a true and correct copy of the Pre-Universal Side Work policies for The Capital Grille restaurants located in Indianapolis, IN; Stamford, CT; Naples, FL; Palm Beach, FL; Rosemont, IL; Boca Raton, FL; 51st Street, NY (Time Life); Wall Street, NY; Cherry Hill, NJ; Chevy Chase, MD; Beverly Center, CA; Paramus, NJ; Costa Mesa, CA; King of Prussia, PA; Houston, TX; Miami, FL; Troy, MI; Chestnut Hill, MD; Washington, D.C.; Boston, MA; Providence, RI; Chicago, IL; Minneapolis, MN; Charlotte, NC; Dallas, TX; Philadelphia, PA; Tyson's Corner, VA; Kansas City, MO; Atlanta, GA; Phoenix, AZ; Denver, CO; Fort Lauderdale, FL; Las Vegas, NV; 42nd Street (New York City), NY; Tampa, FL; Baltimore, MD; Scottsdale, AZ; Orlando, FL; Lombard, IL; Milwaukee, WI; Burlington, MA; Jacksonville, FL; Seattle, WA; Pittsburgh, PA.

36. Attached hereto as **Exhibit 34** is a true and correct copy excerpt from the deposition of Jill Dickstein.

37. Attached hereto as **Exhibit 35** is a true and correct copy of an excerpt from the

deposition of Tasiya Oliver.

38. Attached hereto as **Exhibit 36** is a true and correct copy of the Declaration of Jill Dickstein.

39. Attached hereto as **Exhibit 37** is a true and correct copy of the Declaration of Nicholas Lazo.

40. Attached hereto as **Exhibit 38** is a true and correct copy of the Declaration of Harry Webb.

41. Attached hereto as **Exhibit 39** is a true and correct copy of the Declaration of Agne Salgado.

42. Attached hereto as **Exhibit 40** is a true and correct copy of the Declaration of James Keeover.

43. Attached hereto as **Exhibit 41** is a true and correct copy of the Declaration of Michelle Stewart.

44. Attached hereto as **Exhibit 42** is a true and correct copy of the Declaration of Craig Perez.

45. Attached hereto as **Exhibit 43** is a true and correct copy of the Declaration of Bobbie Jo Martino.

46. Attached hereto as **Exhibit 44** is a true and correct copy of the Declaration of Kevin Scheerle.

47. Attached hereto as **Exhibit 45** is a true and correct copy of the Declaration of Todd Cain.

48. Attached hereto as **Exhibit 46** is a true and correct copy of the Declaration of Brooke Currier.

49. Attached hereto as **Exhibit 47** is a true and correct copy of the Declaration of

Ricardo Reyes.

50. Attached hereto as **Exhibit 48** is a true and correct copy of the Declaration of Shawn Martin.

51. Attached hereto as **Exhibit 49** is a true and correct copy of the Declaration of Marisha Mayer.

52. Attached hereto as **Exhibit 50** is a true and correct copy of the Declaration of Patty Stoetzer.

53. Attached hereto as **Exhibit 51** is a true and correct copy of correspondence regarding the implementation of Universal Side Work.

54. Attached hereto as **Exhibit 52** is a true and correct copy of The Capital Grille's Universal Side Work Manual.

55. Attached hereto as **Exhibit 53** is a true and correct copy of an excerpt from the deposition of John Mirabal.

56. Attached hereto as **Exhibit 54** is a true and correct copy of the Declaration of Joshua Butts.

57. Attached hereto as **Exhibit 55** is a true and correct copy of the Declaration of Danny Van Wie.

58. Attached hereto as **Exhibit 56** is a true and correct copy of the Declaration of Angela Miceli.

59. Attached hereto as **Exhibit 57** is a true and correct copy of the Declaration of Donald Harvey.

60. Attached hereto as **Exhibit 58** is a true and correct copy of the Declaration of Stella Constantinou.

61. Attached hereto as **Exhibit 59** is a true and correct copy of the Declaration of

Michael Martorella.

62. Attached hereto as **Exhibit 60** is a true and correct copy an excerpt from the deposition of Lance Feldhun.

63. Attached hereto as **Exhibit 61** are true and correct copies of three December of 2010 emails from Directors of Operations advising MPs that if they have the position of silverware polisher in their restaurant, those individuals should be not be included in any tip sharing.

64. Attached hereto as **Exhibit 62** are true and correct copies of excerpts from the deposition of Mark Wirnowski.

65. Attached hereto as **Exhibit 63** is a true and correct copy of the Declaration of Krista Hassinger.

66. Attached hereto as **Exhibit 64** is a true and correct copy of an excerpt from the Spring 2010 The Capital Grille Manager Recommitment.

67. Attached hereto as **Exhibit 65** is a true and correct copy of an excerpt from the deposition of Rebecca Ledwell.

68. Attached hereto as **Exhibit 66** is a true and correct copy of the Declaration of Nick Kassis.

69. Attached hereto as **Exhibit 67** is a true and correct copy of The Capital Grille's Safe and Secure policy.

70. Attached hereto as **Exhibit 68** are true and correct copies of excerpts from the deposition of Amy Mitchell.

71. Attached hereto as **Exhibit 69** is a true and correct copy an excerpt from the deposition of Ahmed Chhab.

72. Attached hereto as **Exhibit 70** is a true and correct copy of an excerpt from the

deposition of DaJuan White.

73. Attached hereto as **Exhibit 71** is a true and correct copy of the Declaration of Stephanie Garrett.

74. Attached hereto as **Exhibit 72** is a true and correct copy of the Declaration of Gwen Zimmer.

75. Attached hereto as **Exhibit 73** is a true and correct copy of the Declaration of Angela Nowland.

76. Attached hereto as **Exhibit 74** is a true and correct copy of Defendants' counter-proposed Notice of Pendency.

Dated: New York, New York
December 17, 2012

Respectfully Submitted,

LITTLER MENDELSON, P.C.

By:

/s/ Craig R. Benson

Craig R. Benson

LITTLER MENDELSON, P.C.

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